

HOUSE BILL 966

M2, M3

1lr1263

By: **Delegates O'Donnell, Bohanan, and Wood**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Restricted Waters for Shellfish Harvesting – Method of**
3 **Testing**

4 FOR the purpose of requiring the Department of the Environment to use a certain test
5 to detect *Escherichia coli* (*E. coli*) in determining whether to restrict, or lift any
6 restrictions on, an area for the catching or storing of shellfish; and generally
7 relating to methods of testing to determine restricted waters for shellfish
8 harvesting.

9 BY repealing and reenacting, with amendments,
10 Article – Natural Resources
11 Section 4–742
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2010 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Natural Resources**

17 4–742.

18 (a) **(1)** If the Department of the Environment determines by appropriate
19 investigation that any area of waters of the State devoted to the production or storage
20 of shellfish is polluted so that shellfish produced or stored in the area are a hazard to
21 public health, it shall restrict the area for the catching or storing of shellfish.

22 **(2)** If the Department of the Environment finds it necessary to restrict
23 an area of water for the taking and storing of shellfish because of the proximity of the
24 area to the point of discharge of a sewage treatment plant or a point of overflow of a
25 sewage pumping station, the Department of the Environment may increase or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 decrease the size of a restricted area in relation to the operational effectiveness of the
2 sewage treatment plant or sewage pumping station.

3 **(3) THE DEPARTMENT OF THE ENVIRONMENT SHALL USE THE**
4 **MOST RELIABLE AVAILABLE TEST TO DETECT ESCHERICHIA COLI (E. COLI) IN**
5 **DETERMINING WHETHER TO RESTRICT, OR LIFT ANY RESTRICTIONS ON, AN**
6 **AREA FOR THE CATCHING OR STORING OF SHELLFISH.**

7 (b) (1) The action of the Department of the Environment to restrict an
8 area of water becomes effective immediately upon giving formal notice of the action to
9 the Department. Notice also shall be given the appropriate governing body and the
10 committee of oystermen of any county affected by the restriction.

11 (2) The Natural Resources Police Force shall patrol the area to warn
12 watermen until public notice is given in newspapers of general circulation in each of
13 the counties whose watermen work the restricted area normally. No arrests may be
14 made until the next workday following the day the notice appeared unless the
15 watermen fail to heed a warning of the officers.

16 (3) (i) If the Department of the Environment closes any area to the
17 catching of shellfish under this section, in addition to the notice required in paragraph
18 (1) of this subsection, the Department of Natural Resources shall mark the area so
19 that the area can be seen from the water.

20 (ii) The Department of Natural Resources shall adopt rules and
21 regulations to provide for the marking in a plain and visibly obvious fashion of any
22 area that is closed to the catching of shellfish because of pollution. Even in the absence
23 of such marking devices, a person may not catch shellfish in a restricted area as
24 designated by the Department of the Environment if notice has been given to the
25 appropriate governing body and the committee of watermen of any county affected by
26 the restriction.

27 (c) (1) After establishing a restriction, the Department of the
28 Environment shall test the water in the restricted area or inspect the source of
29 pollution of the water at least twice monthly, or more frequently if requested by the
30 appropriate governing body of any county affected by the restriction. A copy of the
31 report of analysis of every test and inspection shall be filed promptly with the
32 appropriate governing body of every county affected by the restriction.

33 (2) Updated charts of the Chesapeake Bay and its tributaries showing
34 all polluted areas shall be filed promptly with the appropriate governing body and
35 oystermen's committee of every tidewater county. Copies of these charts shall be filed
36 also with the Fisheries Administration and the Natural Resources Police.

37 (d) Whenever samples of water and shellfish of a restricted area indicate
38 that the shellfish and water again comply with standards for harvesting shellfish, the
39 restrictions promptly shall be lifted.

1 (e) The Secretary of the Department of the Environment may delegate
2 authority to impose restrictions, or remove restrictions no longer required. These
3 actions, however, shall be reported and consented to by the Secretary.

4 (f) Each violation of this section constitutes a separate offense punishable as
5 provided by the provisions of this title.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2011.